(4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P.NO. 348 OF 2001

BETWEEN

1. Kalyan Singh Sonwani S/o Late Shri Manohar Sonwani, aged 65 years .

2. Nani Bai W/o Kalyan Singh Sonwani, aged 55 years.

Both resident of Village Sarbada, P.S. Abhanpur, District Dhamtari (Chhattisgarh).

PETITIONERS

A N D

1. Dharmin Bai aged about 27 years Wd/o Late Rajesh Sonwani, C/o Jagat Ram Baghel, Chhattisgarh Ayurvedic Dispensary Dallirajhara, District Durg .

2. 2nd Civil Judge Class I, Raipur.

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(64)

आदेश पत्रक

मामला क्रमांक W.P. No. 348/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10/5/2001

Heard Mr. Prashant Mishra, learned counsel for the petitioner and Mr. Awadh Tripathi, learned counsel with Kum. Jahanara Khan for the respondent.

The child - Master Nitesh Kumar is produced as directed. The mother of the child is also present in my chamber. The child is about ten years. I asked the child whether he is happy with his grand-father. He says yes and he would like to continue to stay with his grand-father I asked him whether he would like to go to his ~~father~~ mother and he says no. I asked him whether he recognises his mother and he says yes.

The main petition for custody of this young boy is still pending at Raipur. This matter has come up before the High Court regarding an interim order of custody of the child. It appears that the Court at Raipur must hear the parties and pass necessary final orders without further delay. Such matter is always a very delicate one, therefore, the Court should handle this matter carefully. It is submitted that the matter is not likely to be decided in the immediate future. Hence, a prayer has been made that at-least during this short period before the matter is finally decided by the IInd Civil Judge, Class-I at ~~Raipur~~ Raipur, the mother may be given interim custody of the boy. According to Mr. Awath

[पीछे देखिये

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Tripathi, such arrangement will be reasonable as the mother is most natural guardian.

Mr. Prashant Mishra, learned counsel for the petitioner submits that after the child crosses the age of 5 years, mother is not absolute natural guardian. Be that as it may, since this boy has told me in the presence of all the lawyers and his mother that he is not willing to go to his mother's place today, it may not be fair for this Court to say that ~~you~~ he should ~~with your~~ to his mother. Let there be a final solution to the question of custody of this young boy at the earliest.

In the result, this petition is disposed of with the direction that the IInd Civil Judge, ClassI at Raipur shall hear and dispose of Guardian and Wards Act Case no.8/1999 within a month commencing from 18/6/2001. If the said Court holds vacation Court, it is for this Court to take up this matter in the interest of justice.

Learned counsel for the petitioner shall submit a copy of this order to the concerned Court within ten days. Till the matter is finally decided by the Court below, the child shall continue to be in the custody of his grand-father.

Sd/-
Chief Justice

GRPRJ--FS/311—1/2001—50,000.

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10/5/01